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23696 7590 12/03/2010 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121				
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* STEVEN J. DAVIS, JOHN HARVEY, LYNNE PATRICK,  
and SCOTT RUSNAK

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Appeal 2009-007239  
Application 10/663,405<sup>1</sup>  
Technology Center 2600

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Before MAHSHID D. SAADAT, MARC S. HOFF,  
and ELENI MANTIS MERCADER, *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>2</sup>

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<sup>1</sup> The real party in interest is Qualcomm Inc.

<sup>2</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

## STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1-20. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellants' invention relates to a system and a method for providing a hazardous material alert from a vehicle that is transporting hazardous material to a remote location (Abstract). In one embodiment, the hazardous material alert is broadcast locally to emergency and rescue personnel through an AM/FM carrier signal, citizen-band (CB), shortwave, or other emergency broadcast channel (Spec. ¶¶ [0020], [0026], and [0027]). In a second embodiment, the hazardous material alert is transmitted over a satellite based communication system to a central processing center at a remote location (Spec. ¶¶ [0020-21]). The method comprises steps of detecting a hazard event, and transmitting the hazardous material alert in response to the hazard event, wherein the hazardous material alert includes information relating to the hazardous material, such as vehicle location, type of hazardous cargo, status of cargo, containment and treatment procedures. (Abstract; Spec. ¶ [0027]).

Claim 1 is exemplary:

1. A method for providing a hazardous material alert for use with a vehicle that is transporting hazardous material, the method comprising the steps of:
  - detecting a hazard event; and
  - transmitting the hazardous material alert in response to the hazard event, wherein the hazardous material alert includes information relating to the hazardous material and wherein transmitting the hazardous material alert includes sending a transmission from the vehicle that can be directly received by emergency personnel responding to the hazard event.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Frese	US 6,472,771 B1	Oct. 29, 2002
Roach	US 6,580,367 B2	Jun. 17, 2003

Claims 1, 9, 13, and 17 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Claims 1-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Roach in view of Frese.

### ISSUE

Appellants contend that the Specification discloses the feature “direct transmission of the hazard alert from the vehicle to emergency personnel responding to the hazard event” (App. Br. 4-5). Appellants assert that neither of the references supplies either directly or by inference the step of providing communication to emergency personnel (App. Br. 7). Appellants argue that disclosure of a firewall in Frese teaches away from an interpretation of dissemination of information to emergency personnel (App. Br. 7). Finally, Appellants contend that there exists a long felt need for supplying a hazardous material alert to emergency personnel directly (App. Br. 9).

Appellants’ contentions present us with the following dispositive issue: Do the references disclose “a transmission [of a hazardous material alert] from the vehicle that can be directly received by emergency personnel responding to the hazard event?”

## FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

### *The Invention*

1. In one embodiment, the hazardous material alert is broadcast locally to emergency and rescue personnel through an AM/FM carrier signal, citizen-band (CB), shortwave, or other emergency broadcast channel (Spec. ¶¶ [0020], [0026], and [0027]). In a second embodiment, the hazardous material alert is transmitted over a satellite based communication system to a central processing center at a remote location (Fig. 1; Spec. ¶¶ [0020-21]).

### *Roach*

2. Roach discloses an information dispatch system 20 that provides immediate transmission of information stored by the information dispatch device 28 within a vehicle to a command control center 24 using GPS 26 upon detection of an emergency situation or activation of an activation button. The information dispatch device 28 is programmed with information concerning the vehicle 22, such as registration information on the vehicle 22, information concerning the load being hauled by the vehicle 22, information on handling emergency situations concerning the vehicle 22 and procedures for handling the load being hauled thereby. Upon detecting an emergency situation, the information dispatch device 28 transmits a signal to the GPS 26 for determining the location of the vehicle 22. GPS 26 transmits a location signal along with the data transmitted by the information dispatch device 28 to the command control center 24 indirectly through a satellite receiver system 30. The received information is then provided by

the command control center 24 to the appropriate emergency personnel so that the situation may be handled quickly and correctly (Fig. 2; col. 7, ll. 10-35).

3. Roach discloses that information dispatch device 28 includes a sensor 60 connected to a processor 54, wherein the sensor 60 is able to sense vehicular impact, fire, smoke, or any other hazardous emergency situation. Upon sensing of an emergency situation by the sensor 60, the processor 54 is activated to retrieve the data from memory 58 and activates a transmitter 62 to transmit the data to the GPS 26. The GPS determines the location of the vehicle and transmits the location information along with the data transmitted by the information dispatch device 28 to the command control center 24 (Fig. 5; col. 8, ll. 16-31).

*Frese*

4. Frese discloses that the vehicle electronics system includes various control units such as, a mobile radio communication unit and a communications device (vehicle-vehicle or vehicle-infrastructure) (col. 2, ll. 56-64).

PRINCIPLES OF LAW

*Enablement*

Pursuant to 35 U.S.C. § 112, first paragraph, “[t]he test of enablement is whether one reasonably skilled in the art could make or use the invention from the disclosures in the patent coupled with information known in the art without undue experimentation.” *United States v. Teletronics, Inc.*, 857 F.2d 778, 785 (Fed. Cir. 1988).

*Obviousness*

On the issue of obviousness, the Supreme Court has stated that “the obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 419 (2007). Further, the Court stated “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* at 416.

ANALYSIS

*§ 112 Rejection of Claims 1, 9, 13, and 17*

We select claim 1 as representative of this group of claims, pursuant to our authority under 37 C.F.R. § 41.37(c)(1)(vii).

Representative claim 1 recites “wherein transmitting the hazardous material alert includes sending a transmission from the vehicle that can be directly received by emergency personnel responding to the hazard event.”

We consider Appellants’ arguments to be persuasive to show Examiner error. We do not agree with the Examiner’s finding that the Specification does not disclose “direct transmission of the hazard alert from the vehicle to emergency personnel responding to the hazard event” (Ans. 3). The Specification clearly discloses *two* embodiments: a first embodiment that broadcasts the hazardous material alert *directly* to emergency personnel and a second embodiment that broadcasts the hazardous material alert *indirectly* through a satellite receiver 108 to a central processing center 102 (FF 1). Specifically, with reference to direct transmission of the hazardous material alert, the Specification discloses that the alert maybe broadcasted locally to emergency and rescue personnel

through an AM/FM carrier signal, citizen-band (CB), shortwave, or other emergency broadcast channel (FF 1). We find that this recitation provides adequate support for the claim limitation at issue.

Therefore, because Appellants' arguments have persuaded us of error in the Examiner's rejection of claims 1, 9, 13, 17 under 35 U.S.C. § 112, first paragraph, we will not sustain the § 112 rejection of claims 1, 9, 13, and 17.

*§ 103 Rejection of Claims 1-20*

We select claim 1 as representative of this group of claims, pursuant to our authority under 37 C.F.R. § 41.37(c)(1)(vii).

Representative claim 1 recites "wherein transmitting the hazardous material alert includes sending a transmission from the vehicle that can be directly received by emergency personnel responding to the hazard event."

We do not consider Appellants' arguments to be persuasive to show Examiner error. Roach discloses an information dispatch system that provides immediate transmission of information stored by the information dispatch device 28 within a vehicle to a command control center 24 using GPS 26 upon detection of an emergency situation (FF 2 and 3). Although Roach discloses that the information is transmitted indirectly through a satellite receiver to a command control center 24, Frese discloses communication of data may be transmitted from vehicle to vehicle using a communications device located with a vehicle electronics system (FF 4).

Therefore, we find that the Examiner has established a prima facie case of obviousness, because the combination of Roach and Frese discloses "a transmission [of a hazardous material alert] from the vehicle that can be directly received by emergency personnel responding to the hazard event."



As a result, we will sustain the Examiner's § 103 rejection of representative claim 1 and that of claims 2-20.

### CONCLUSION

The references disclose "a transmission [of a hazardous material alert] from the vehicle that can be directly received by emergency personnel responding to the hazard event."

### ORDER

The Examiner's rejection of claims 1-20 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

Appeal 2009-007239  
Application 10/663,405

AFFIRMED

ELD

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